

Farm Service Agency, USDA

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example, flood susceptibility for the land, soil surveys, aerial photographs, or flood plain data or other relevant information.

[69 FR 10302, Mar. 4, 2004. Redesignated at 75 FR 70088, Nov. 17, 2010]

§§ 701.106–701.109 [Reserved]

§ 701.110 Qualifying minimum cost of restoration.

(a) To qualify for assistance under § 701.103(a), the eligible damage must be so costly that Federal assistance is or will be required to return the land to productive agricultural use or to provide emergency water for livestock.

(b) The Deputy Administrator shall establish the minimum qualifying cost of restoration. Each affected State may be allowed to establish a higher minimum qualifying cost of restoration.

(c) A producer may request a waiver of the qualifying minimum cost of restoration. The waiver request shall document how failure to grant the waiver will result in environmental damage or hardship to the producer and how the waiver will accomplish the goals of the program.

[69 FR 10302, Mar. 4, 2004; 69 FR 22377, Apr. 26, 2004. Redesignated and amended at 75 FR 70088, Nov. 17, 2010]

§ 701.111 Prohibition on duplicate payments.

(a) *Duplicate payments.* Participants are not eligible to receive funding under the ECP for land on which the participant has or will receive funding under:

(1) The Wetland Reserve Program (WRP) provided for in 7 CFR part 1467;

(2) The Emergency Wetland Reserve Program (EWRP) provided for in 7 CFR part 623;

(3) The Emergency Watershed Protection Program (EWP), provided for in 7 CFR part 624, for the same or similar expenses.

(4) Any other program that covers the same or similar expenses so as to create duplicate payments, or, in effect, a higher rate of cost share than is allowed under this part.

(b) *Refund.* Participants who receive any duplicate funds, payments, or ben-

efits shall refund any ECP payments received.

[69 FR 10302, Mar. 4, 2004, as amended at 71 FR 30265, May 26, 2006. Redesignated at 75 FR 70088, Nov. 17, 2010]

§ 701.112 Eligible ECP practices.

(a) Cost-share assistance may be offered for ECP practices to replace or restore farmland, fences, or conservation structures to a condition similar to that existing before the natural disaster. No relief under this subpart shall be allowed to address conservation problems existing before the disaster.

(b) The practice or practices made available when the ECP is implemented shall be only those practices authorized by FSA for which cost-share assistance is essential to permit accomplishment of the program goals.

(c) Cost-share assistance may be provided for permanent vegetative cover, including establishment of the cover where needed, only in conjunction with eligible structures or installations where cover is needed to prevent erosion and/or siltation or to accomplish some other ECP purpose.

(d) Practice specifications shall represent the minimum levels of performance needed to address the ECP need.

[69 FR 10302, Mar. 4, 2004. Redesignated and amended at 75 FR 70088, Nov. 17, 2010]

§§ 701.113–701.116 [Reserved]

§ 701.117 Average adjusted gross income limitation.

To be eligible for payments issued from the \$16 million provided under the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Pub. L. 110–28, section 9003), each applicant must meet the provisions of the Adjusted Gross Income Limitations at 7 CFR part 1400 subpart G.

[72 FR 45880, Aug. 16, 2007. Redesignated at 75 FR 70088, Nov. 17, 2010]

§§ 701.118–701.125 [Reserved]

§ 701.126 Maximum cost-share percentage.

(a) In addition to other restrictions that may be applied by FSA, an ECP participant shall not receive more than

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75 percent of the lesser of the participant's total actual cost or of the total allowable costs, as determined by this part, to perform the practice.

(b) However, notwithstanding paragraph (a) of this section, a qualified limited resource producer that participates in the ECP may receive no more than 90 percent of the participant's actual cost to perform the practice or 90 percent of the total allowable costs for the practice as determined under this part.

(c) In addition to other limitations that apply, in no case shall the ECP payment exceed 50 percent of what the Deputy Administrator has determined is the agricultural value of the affected land.

[69 FR 10302, Mar. 4, 2004. Redesignated and amended at 75 FR 70088, Nov. 17, 2010]

§ 701.127 Maximum ECP payments per person or legal entity.

A person or legal entity, as defined in part 1400 of this title, is limited to a maximum ECP cost-share of \$200,000 per person or legal entity, per natural disaster.

[75 FR 7088, Nov. 17, 2010]

§§ 701.128–701.149 [Reserved]

§ 701.150 2005 hurricanes.

In addition benefits elsewhere allowed by this part, claims related to calendar year 2005 hurricane losses may be allowed to the extent provided for in §§ 701.150 through 701.157. Such claims under those sections will be limited to losses in counties that were declared disaster counties by the President or the Secretary because of 2005 hurricanes and to losses to oyster reefs. Claims under §§ 701.151 through 701.157 shall be subject to all normal ECP limitations and provisions except as explicitly provided in those sections.

[71 FR 30265, May 26, 2006. Redesignated and amended at 75 FR 70088, 70089, Nov. 17, 2010]

§ 701.151 Definitions.

The following definitions apply to §§ 701.152 through 701.157:

Above-ground irrigation facilities means irrigation pipes, sprinklers, pumps, emitters, and any other inte-

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gral part of the above ground irrigation system.

Barn means a structure used for the housing of animals or farm equipment.

Commercial forest land means forest land with trees intended to be harvested for commercial purposes that has a productivity potential greater than or equal to 20 cubic feet per year of merchantable timber.

Date of loss means the date the hurricane damage occurred in calendar year 2005.

Eligible county means any county that was declared a disaster county by the President or the Secretary because of a calendar year 2005 hurricane, that otherwise meets the eligibility requirements of this part.

Forest management plan means a plan of action and direction on forest lands to achieve a set of results usually specified as goals or objectives consistent with program policies prepared or approved by a natural resource professional, such as a State forestry agency representative.

Poultry house means a building used to house live poultry for the purpose of commercial food production.

Private non-industrial forest land means rural commercial forest lands with existing tree cover, or which are suitable for growing trees, that are owned by a private non-industrial forest landowner as defined in this section.

Private non-industrial forest landowner means, for purposes of the ECP for forestry, an individual, group, association, corporation, Indian tribe, or other legal private entity owning non-industrial private forest land or who receives concurrence from the landowner for making the claim in lieu of the owner, and for practice implementation and who holds a lease on the land for a minimum of 10 years. Owners or lessees principally engaged in the primary processing of raw wood products are excluded from this definition. Owners of land leased to lessees who would be excluded under the previous sentence are also excluded.

Shade house means a metal or wood structure covered by a material used for shade purposes.

[71 FR 30265, May 26, 2006. Redesignated and amended at 75 FR 70088, 70089, Nov. 17, 2010]